



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,930	01/18/2002	Chris E. Wallace	708-1012	1584

23644 7590 09/02/2005

BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

EXAMINER

REFAI, RAMSEY

ART UNIT PAPER NUMBER

2152

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/051,930

Applicant(s)

WALLACE ET AL.

Examiner

Ramsey Refai

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,7,8 and 14-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-6, 9-13, 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Responsive to Amendment filed on June 24, 2005. Claims 2, 3, 7, 8, and 14-16 have been canceled.

Claim 17 is new. Claims 1, 4, 5, 6, 9, 10, 12, and 13 have been amended. Claims 1, 4-6, 9-13, and 17 are now presented for examination.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "computer readable" is not described in the specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 1, 4, 6, 9, 12, 13, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claims 1, 6, 12, 13, and 17 recites the limitation "whereby to prevent the network manager effecting changes under fault conditions". It is not clear what is meant by this limitation,

whether the network manager is prevented *from* effecting changes under fault changes or preventing the network manger *by* effecting changes under fault conditions.

- Claims 1 and 13 recite the limitations “every node”, “each node”, “the node”, “that node” and, “a node”. There is insufficient antecedent basis for these limitations in the claims.
- Claims 4 and 9, recites the limitation “transmitted signature data”. There is insufficient antecedent basis for this limitation in the claim.
- Claim 6 recites the limitations “each node”, “the nodes”, “the node”, “that node”, “all of the nodes” and, “a node”. There is insufficient antecedent basis for these limitations in the claim.
- Claim 12 recites the limitations “the nodes” and “a node”. There is insufficient antecedent basis for these limitations in the claim.
- Claim 17 recites the limitation “the networks”. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 4 - 6, 9-13, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Olivia et al (U.S. Patent No. 6,654,802).

7. As per claim 1, Olivia et al teach a method for determining the connectivity of nodes in a communication network comprising a plurality of interconnected nodes (**column 3, lines 7-9 and abstract**), the method comprising:

transmitting into the network a signal from each node, the signal from each node constituting a signature data unique to that node (**column 3, lines 11-15 and 32-40, and abstract**);

receiving unique signature data from every node at a network manager controlling the network (**column 3, lines 30-40 and abstract**); and

correlating the received data at the network manager to determine the physical connectivity of the nodes of the network (**column 3, lines 16-23 and abstract**);

wherein the method further comprises each node reporting to the network manager both unique signature data transmitted from that node into the network and unique signature data received at that node from another node (**abstract and column 6, lines 51-67**), wherein a node that was previously receiving valid unique signature data from another node does not report reception of invalid signature data to thereby prevent the network manager effecting changes to the connectivity of the nodes under a fault condition (**column 7, lines 3-40**).

8. As per claims 4 and 9, Olivia et al teach wherein under circumstances in which a node has not detected a unique signature data matching a transmitted signature data, the network manager creates an off-network pointer for the said node (**column 5, line 59-column 6, line 15**).

9. As per claims 5 and 10, Olivia et al teach establishing a unidirectional trail in the network manager from a second node to a first node when the first node detects the unique signature data of the second node (**column 3, lines 16-53**); establishing a unidirectional trail in the network manager from the first node to the second node when the second node detects the unique signature data of the first node; and

thereby establishing a bidirectional trail between the first node and the second node (column 3, lines 16-53).

10. As per claim 6, Olivia et al teach a communication network comprising a plurality of interconnected nodes (column 3, lines 7-9), each node having a transmitter for transmitting into the network a signature signal, the signal constituting signature data unique to that node (column 3, lines 12-16 and abstract), a detector for detecting unique signature data received at said node from another node (column 3, lines 12-16 and 40-54, and abstract) and means for reporting the unique signature data transmitted from that node into the network and the unique signature data received at that node from another node to a network manager controlling the network (column 6, lines 51-67 and abstract), the network manager having a correlator for correlating the unique signature data received from all of the nodes to determine the physical connectivity of the nodes of the network (column 3, lines 15-23 and abstract), wherein a node that was previously receiving valid unique signature data from another node is arranged to not report reception of invalid signature data to the network manager to thereby prevent the network manager effecting changes to the connectivity of the nodes under a fault condition (column 7, lines 3-40).

11. As per claim 11, Olivia et al teach the network is an optical communication network (column 1, lines 27-38).

12. As per claim 12, Olivia et al teach a network manager for a communication network, the communication network comprising a plurality of interconnected nodes (column 3, lines 7-9 and abstract), the network manager provided with correlator means for determining the connectivity of said nodes in response to detection at each node of unique signature signals transmitted into the network from

each node (column 3, lines 16-23 and abstract), said correlator means adapted to correlate the detected unique signature signals to determine the physical connectivity of the network (column 3, lines 16-23 and abstract), wherein the network manager is arranged to control a node that was previously receiving valid unique signature data from another node to not report reception of invalid signature data to thereby prevent the network manager effecting changes to the connectivity of the nodes under a fault condition (column 7, lines 3-40).

13. As per claims 13 and 17, these claims contain similar limitations as claim 1 above, therefore are rejected under the same rationale.

Response to Arguments

14. Applicant's arguments filed June 24, 2005 have been fully considered but they are not persuasive.

- Applicant argues in substance that "there is no disclosure in Olivia that any network what was receiving valid signature data from another network can controlled to not send invalid signature data now being received on the occurrence of a fault condition to the network manager".
- In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that *any network* what was receiving valid signature data from *another network* can controlled to not send invalid signature data now being received on the occurrence of a fault condition to the network manager) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Applicant is arguing that Olivia fails to teach this feature, however, no mention of multiple networks is recited in the claims. These claims are directed to nodes in a network and network elements in a network, not multiple networks.

Conclusion


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


August 30, 2005


JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Ramsey Refai
Examiner
Art Unit 2152